

BOARD OF SUPERVISORS
COUNTY OF YORK
YORKTOWN, VIRGINIA

Ordinance

At a regular meeting of the York County Board of Supervisors held in York Hall, Yorktown, Virginia, on the ____ day of ____, 2006:

Present

Vote

Walter C. Zaremba, Chairman
Kenneth L. Bowman, Vice Chairman
Sheila S. Noll
James S. Burgett
Thomas G. Shepperd, Jr.

On motion of _____, which carried ____, the following ordinance was adopted:

AN ORDINANCE TO CREATE CHAPTER 23.3, STORMWATER MANAGEMENT, OF THE YORK COUNTY CODE IN ORDER TO ESTABLISH MINIMUM STORMWATER MANAGEMENT REQUIREMENTS AND CONTROLS TO PROTECT PROPERTIES, SAFEGUARD THE GENERAL HEALTH, SAFETY, AND WELFARE OF THE PUBLIC RESIDING IN WATERSHEDS WITHIN THE COUNTY AND TO PROTECT AQUATIC RESOURCES AS AUTHORIZED BY TITLE 10.1, CHAPTER 6, ARTICLE 1.1 (SECTIONS 10.1-603 ET SEQ) OF THE CODE OF VIRGINIA. ADDITIONALLY, THE ORDINANCE SHALL FULFILL THE REQUIREMENT OF THE COUNTY'S VIRGINIA POLLUTANT DISCHARGE ELIMINATION SYSTEM (VPDES) PERMIT WHICH MANDATES THE COUNTY ADOPT REGULATIONS TO PROHIBIT ILLICIT DISCHARGES INTO THE STORM SEWER SYSTEM.

BE IT ORDAINED by the York County Board of Supervisors this the ____ day of _____, 2006, that Chapter 23.3, Stormwater Management, be and it is hereby established to read and provide as follows:

ARTICLE I. IN GENERAL

Sec. 23.3-1. Purpose of chapter.

It is the purpose of this chapter to establish minimum stormwater management requirements and controls to protect properties, safeguard the general health, safety, and wel-

fare of the public residing in watersheds within the county and to protect aquatic resources, as authorized by Title 10.1, Chapter 6, Article 1.1 (sections 10.1-603 et seq) of the Code of Virginia.

Additionally, amendments to the Federal Water Pollution Control Act, commonly known as the Clean Water Act, in 1987 required the Environmental Protection Agency to establish National Pollutant Discharge Elimination System permit regulations and the Virginia Department of Environmental Quality to establish the Virginia Pollutant Discharge Elimination System (VPDES) permit regulations for municipal separate storm sewer systems. These regulations require the county to adopt an ordinance to prohibit illicit discharges into the storm sewer system. It is also the purpose of this chapter to meet the requirements of prohibiting illicit discharges.

This chapter seeks to meet these purposes through the following objectives:

1. Require that land development and land conversion activities maintain the post-development runoff characteristics, as nearly as practicable, to the pre-development runoff characteristics in order to reduce flooding, siltation, stream bank erosion, and property damage;
2. Establish minimum design criteria for the protection of properties and aquatic resources downstream from land development and land conversion activities from damages due to increases in volume, velocity, frequency, duration, and peak flow rate of stormwater runoff;
3. Establish minimum design criteria for measures to minimize nonpoint source pollution from stormwater runoff which would otherwise degrade water quality;
4. Establish provisions for the long-term responsibility for and maintenance of stormwater management control devices and other techniques specified to manage the quality and quantity of runoff;
5. Establish certain administrative procedures for the submission, review, approval and disapproval of stormwater plans and the inspection of approved projects; and
6. Establish controls to reduce pollutants to the storm sewer system from illicit discharges to the maximum extent practicable, as required by the county's small municipal separate storm sewer system VPDES discharge permit.

Sec. 23.3-2. Definitions.

For the purpose of this chapter, the following words and terms shall have the meanings stated in this section unless the context clearly indicates otherwise:

Act. Means Article 1.1 (10.1-603 et seq) of Chapter 6 of Title 10.1 of the Code of Virginia, also sometimes referred to herein as the Virginia Stormwater Management Law.

Applicant. Any person submitting a stormwater management plan for approval.

Approved or Approval. Means approval by the plan-approving authority unless another authority is specifically named.

Average Land Cover Condition. A measure of the average amount of impervious surfaces within a watershed, assumed to be 16 percent.

Best Management Practice (BMP). A structural or nonstructural practice that is designed to minimize the impacts of development on surface and groundwater systems.

Code of Virginia. All references herein to the Code of Virginia are to the Code of Virginia (1950), as it may be amended from time to time.

Code. The Code of the County of York, Virginia.

County. The County of York.

County Administrator. The county administrator for York County, or his designee.

Developer. A person who undertakes land disturbance activities.

Development. Land development or a land development project.

Discharge. To dispose, deposit, spill, pour, inject, dump, leak or place by any means, or that which is disposed, deposited, spilled, poured, injected, dumped, leaked, or placed by any means.

Drainage Easement. A legal right granted by an owner to a grantee allowing the use of private land for stormwater management purposes.

Flooding. A volume of water that is too great to be confined within the banks or walls of the stream, water body or conveyance system and that overflows onto adjacent lands, causing or threatening damage.

Groundwater. All subsurface water, including, but not limited to, that part within the zone of saturation.

Impervious Cover. A surface composed of any material that significantly impedes or prevents natural infiltration of water into soil. Impervious surfaces include, but are not limited to, roofs, buildings, streets, parking areas, and any concrete, asphalt, or compacted gravel surface.

Illicit discharge. Any discharge to the storm sewer system that is not composed entirely of stormwater except the term shall not include the following discharges unless such discharges are identified by the county administrator to cause sewage, industrial wastes or other wastes to be discharged into the storm sewer system:

- (1) Water line flushing;
- (2) Landscape irrigation;
- (3) Diverted stream flows or rising groundwater;
- (4) Infiltration of uncontaminated groundwater;
- (5) Public safety activities;
- (6) Pumping of uncontaminated groundwater from potable water sources, foundation drains, irrigation waters, springs or water from crawl spaces or footing drains;
- (7) Air conditioning condensation;
- (8) Lawn watering;
- (9) Individual residential car washing;
- (10) Flows from riparian habitats or wetlands;
- (11) Dechlorinated swimming pool discharges;
- (12) Street washing;
- (13) Any activity authorized by a valid Virginia Pollutant Discharge Elimination System (VPDES) permit, a Virginia Stormwater Management permit (VSMP) or Virginia Pollution Abatement (VPA) permit; or
- (14) Any other water sources not containing sewage, industrial wastes or other wastes.

Industrial Wastes. Liquid or other wastes resulting from any process of industry, manufacture, trade or business or from the development of any natural resources.

Land Development or Land Development Project. A manmade change to the land surface that potentially changes its runoff characteristics.

Linear Development Project. A land development project that is linear in nature such as, but not limited to, (i) the construction of electric and telephone utility lines, and natural gas pipelines; (ii) construction of tracks, rights-of-way, bridges, communication facilities and other related structures of a railroad company; and (iii) highway construction projects.

Local Stormwater Management Program or Local Program. A statement of the various methods adopted pursuant to the Act and implemented by the county to manage the runoff from land development projects and shall include an ordinance with provisions to

require the control of post-development stormwater runoff rate of flow, water quality, the proper maintenance of stormwater management facilities, and minimum administrative procedures consistent with this chapter.

Maintenance Agreement. A legally recorded document that acts as a property deed restriction, and which provides for long-term maintenance of storm water management practices.

Minimum Standards. Those Minimum Standards contained within the Erosion and Sediment Control Regulations promulgated by the Virginia Soil and Water Conservation Board, as set out in 4 VAC 50-30-40 of the Virginia Administrative Code as they may be extended from time to time.

Nonpoint Source (NPS) Pollution. Pollution from any source other than from any discernible, confined, and discrete conveyances, and shall include, but not be limited to, pollutants from agricultural, silvicultural, mining, construction, subsurface disposal and urban runoff sources.

Nonpoint Source Pollutant Runoff Load or Pollutant Discharge. The average amount of a particular pollutant measured in pounds per year, delivered in a diffuse manner by stormwater runoff.

Other Wastes. Materials that can adversely affect waters of the United States should they be discharged into same including, but not limited to: decayed wood; sawdust; chips; shavings; bark; leaves; lawn clippings; lawn chemicals, except those applied in accordance with manufacturer's recommendations; animal or vegetable matter; pet waste; construction debris; garbage; refuse; ashes; offal; tar; paint; solvents; petroleum products; gasoline; oil waste; antifreeze or other automotive, motor or equipment fluids.

Owner. The owner or owners of the freehold of the premises or lesser estate therein, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee or other person, firm or corporation in control of a property.

Person. Any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, county, city, town or other political subdivision of the Commonwealth, any interstate body or any other legal entity.

Plan-approving Authority. The county administrator or his designee who is responsible for determining the adequacy of a submitted stormwater management plan.

Post-development. Conditions that reasonably may be expected or anticipated to exist after completion of the land development activity on a specific site or tract of land.

Pre-development. Conditions that exist at the time that plans for the land development of a tract of land are approved by the plan approving authority. Where phased development or plan approval occurs (preliminary grading, roads and utilities, etc.), the exist-

ing conditions at the time prior to the first item being approved or permitted shall establish pre-development conditions.

Record Drawing. A drawing of the completed facilities showing actual constructed elevations, dimensions and locations.

Regulations. All regulations promulgated by any local, state, or federal governmental agency having oversight and authority over the control and management of stormwater, including (without limitation) the Virginia Stormwater Management Law and Regulations and the Virginia Stormwater Management Handbook promulgated by the Virginia Board of Conservation and Recreation, as they may be amended from time to time.

Runoff or Stormwater Runoff. That portion of precipitation that is discharged across the land surface or through conveyances to one or more waterways.

Sanitary Sewer. A system of conduits that collect and deliver sanitary wastewater to a wastewater treatment or pumping facility.

Sewage. The water-carried human wastes from residences, buildings, industrial establishments or other places, together with such industrial wastes, stormwater or other water as may be present.

Sheet flow. Shallow, unconcentrated and irregular flow down a slope.

Site. The parcel of land being developed, or a designated planning area in which the land development project is located.

State Waters. All waters on the surface and under the ground wholly or partially within or bordering the Commonwealth or within its jurisdiction.

Stop Work Order. An order issued which requires that construction activity on a site be stopped.

Storm Sewer System. See Stormwater System.

Stormwater or Stormwater Runoff. Flow from rain, snow or other forms of precipitation and the resulting surface runoff and drainage.

Stormwater Management. The use of structural or non-structural practices that are designed to reduce storm water runoff pollutant loads, discharge volumes, and/or peak flow discharge rates.

Stormwater Management Plan or Plan. A document containing material for describing how existing runoff characteristics will be affected by a land development project and methods for complying with the requirements of the local program or this chapter.

Stormwater System or Storm Sewer System. A system of roads, streets, catch basins, curbs, gutters, ditches, pipes, lakes, ponds, channels, storm drains and other facilities

located within the county that are designed or used for collecting, storing, or conveying stormwater or through which stormwater is collected, stored, or conveyed.

Watershed. A defined land area drained by a river, stream, drainage ways or system of connecting rivers, streams, or drainage ways such that all surface water within the area flows through a single outlet.

Sec. 23.3-3. Local stormwater management program.

- (a) Pursuant to the Virginia Stormwater Management Law, Title 10.1, Chapter 6, Article 1.1 of the Code of Virginia, the county hereby adopts the regulations, references, guidelines, standards and specifications (hereinafter “the Virginia Stormwater Management Law and Regulations”) and the Virginia Stormwater Management Handbook (“the Handbook”) promulgated by the Virginia Board of Conservation and Recreation, as such may be amended from time to time, for the effective management of stormwater to prevent the unreasonable degradation of properties and other natural resources in the form of water pollution, stream channel erosion, depletion of ground water resources and more frequent localized flooding. The Virginia Stormwater Management Law and Regulations and the Handbook are sometimes referred to hereinafter collectively as “the state program”.
- (b) Before adopting regulations that are more stringent than the state program, the county shall give due notice and conduct a public hearing on the proposed or revised regulations. No public hearing shall be required when the county is amending the local program to conform to revisions in the state program.
- (c) The county administrator is hereby designated as the county's agent for the purpose of administering and enforcing the terms of this chapter. The agent is authorized to make such inspections as may be necessary to ensure compliance with the terms of this chapter, and any conditions of approval for specific projects and is authorized to take such steps as are provided by this chapter, and as may be necessary, to ensure compliance with its terms. The county administrator shall prepare such standards and regulations not inconsistent with this chapter as may be necessary to regulate the design, construction, and maintenance of stormwater systems. The standards and regulations shall be subject to the approval of the governing body and shall be amended from time to time as conditions warrant.
- (d) The program and regulations provided for in this ordinance shall be made available for public inspection at the office of the county’s Department of Environmental and Development Services.

Sec. 23.3-4. Conflicting requirements.

- (a) The terms, conditions and provisions of this chapter shall in no way alter, diminish, abrogate, annul, or change the terms, conditions or provisions of any other ordinance of the county or of any other rule or regulation, statute or other provision of law.
- (b) In the case of any conflict between any term, condition or provision of this chapter with any term, condition or provision of any other ordinance, regulation, or statute the more restrictive term, condition or provision shall prevail.
- (c) In the case of any conflict between any term, condition or provision of this chapter with any other term, condition or provision contained elsewhere in this Code, the more restrictive term, condition or provision shall prevail.

Sec. 23.3-5. Applicability.

- (a) Without limitation, this chapter shall be applicable to all subdivision, site plan, building permit or land disturbing activity applications. This chapter also applies to land development activities that are smaller than the minimum applicability criteria if such activities are part of a larger common plan of development that meets the applicability criteria, even though multiple separate and distinct land development activities may take place at different times on different schedules. In addition, all plans must also be reviewed by the county to ensure that established water quality standards will be maintained during and after development of the site and that post construction runoff levels are consistent with any local and regional watershed plans. No subdivision or site plan, or application for a building permit or land disturbing activity permit, or plan or permit relating to any land development activity to which this Chapter applies, shall be approved unless such plan or application is in full compliance with this Chapter.
- (b) To prevent the adverse impacts of stormwater runoff, the county has developed a set of performance standards that must be met at development sites. These standards apply to any land development or land use conversion activity disturbing 2500 square feet or more of land.
- (c) In addition to the foregoing, the provisions of this chapter shall apply, as applicable, to all modifications to existing stormwater systems and to all illicit discharges.
- (d) The following activities are exempt from the stormwater performance standards:
 - (1) Permitted surface or deep mining operations and projects, or oil and gas operations and projects conducted under the provisions of Title 45.1 of the Code of Virginia;
 - (2) Tilling, planting or harvesting of agricultural, horticultural, or forest crops;

- (3) Construction of single-family residences separately built and not part of a subdivision, including additions or modifications to existing single-family detached residential structures;
- (4) Land development projects that disturb less than 2500 square feet of land area; and
- (5) Linear development projects, provided that (i) less than one acre of land will be disturbed per outfall or watershed, (ii) there will be insignificant increases in peak flow rates, and (iii) there are no existing or anticipated flooding or erosion problems downstream of the discharge point.

Secs. 23.3-6 —23.3-10. Reserved.

ARTICLE II. STORMWATER MANAGEMENT PROGRAM PROCEDURES AND REQUIREMENTS

Sec. 23.3-11. Stormwater management performance standards.

- (a) Water quality performance standards: The post-development non-point source pollution runoff load shall not exceed the calculated pre-development load based upon the average land cover condition or the existing site condition. Compliance with the water quality performance standards shall be achieved by applying Performance-based water quality criteria in accordance with the Handbook.
- (b) Water quantity performance standards: The post-development runoff rate shall not exceed the calculated pre-development runoff rate. When complying with subdivision 19 of 4 VAC 50-30-40, also known as “Minimum Standard 19”, to protect properties and receiving waterways downstream of land development projects, the twenty-four hour extended-detention of the runoff from the one-year frequency storm shall be used in lieu of the two-year storm.

Sec. 23.3-12. Stormwater management plans.

- (a) A stormwater management plan (plan) shall be submitted to the county Department of Environmental and Development Services for review and approval concurrent with the submission of applications of site plans, subdivision plans or land disturbing activity permits. Land disturbing activity permits shall not be issued for the activity until the plan, as required by this chapter, detailing how runoff and associated water quality impacts resulting from the activity will be controlled and managed is approved.
- (b) The standards contained within the Virginia Stormwater Management Law and Regulations and the Handbook are to be used by the applicant when making a

submittal under the provisions of this ordinance and in the preparation of stormwater management plans. The plan-approving authority, in considering the adequacy of a submitted plan, shall be guided by these same standards, regulations and guidelines. When the standards vary between the publications, the Virginia Stormwater Management Regulations shall take precedence.

- (c) It is the responsibility of an applicant to include in the plan sufficient information for the plan-approving authority to evaluate the environmental characteristics of the affected areas, the potential and predicted impacts of the development and the effectiveness and acceptability of the proposed measures detailed in the plan.
- (d) All stormwater management plans shall be appropriately sealed and signed by a professional engineer licensed to practice in Virginia certifying that the plan meets all submittal requirements outlined in this ordinance and is consistent with good engineering practice.
- (e) Stormwater management plans shall be approved or disapproved according to the following:
 - (1) A maximum of 60 calendar days from the day a complete stormwater management plan is accepted for review will be allowed for the review of the plan. During the 60-day review period, the plan approving authority shall either approve or disapprove the plan and communicate its decision to the applicant in writing. Approval or denial shall be based on the plan's compliance with the requirements of this chapter.
 - (2) A disapproval of a plan shall contain the reasons for disapproval.
- (f) An approved plan may be changed by the plan approving authority when:
 - (1) An inspection reveals that the plan is inadequate to satisfy applicable requirements; or
 - (2) The person responsible for carrying out the plan finds that because of changed circumstances or for other reasons the approved plan cannot be effectively carried out, and proposed amendments to the plan, consistent with the requirements of this ordinance are agreed to by the plan approving authority and the person responsible for carrying out the plans.
- (g) In addition to the above standards, the following requirements shall be met for plan submissions:
 - (1) The size, number, format, etc. of the plan shall meet the applicable requirements for site plan submission in accordance with chapter 24.1 of this code or for subdivision plan submission in accordance with Chapter 20.5, depending upon whether the stormwater management plan is being submitted as part of a site plan or subdivision plan application.

- (2) Plans shall be prepared to an appropriate engineer's scale and the scale shall be shown on the plan.
- (3) The location and extent of any transitional buffers, infiltration yards, Chesapeake Bay preservation areas, floodplain management areas, wetlands, historic resources management areas, tourist corridor management areas and/or watershed management and protection areas that may be required by the application of chapters 24.1 (zoning ordinance), 23.2 (Chesapeake Bay preservation areas) or 23.1 (wetlands) of this code shall be shown on the plan.
- (4) The location, type, extent, owner's name and recordation information of any existing or proposed landscape, conservation, preservation, drainage, impoundment, utility, ingress/egress or similar easements on the subject property or adjoining the property shall be shown on the plan.
- (5) Hydrologic and hydraulic design calculations for the pre-development and post-development conditions shall be prepared and submitted along with the plan. Such calculations shall include (i) description of the design storm frequency, intensity and duration, (ii) time of concentration, (iii) soil curve numbers or runoff coefficients, (iv) peak runoff rates and total runoff volumes for each watershed area, (v) stormwater routing, (vi) infiltration rates, where applicable, (vii) culvert capacities, (viii) flow velocities, (ix) data on the increase in rate and volume of runoff for the specified design storms, (x) hydraulic grade lines, (xi) inlet sizing, (xii) and documentation of sources for all computation methods and field test results.
- (6) Pre-development and post-development drainage area maps with topography (minimum scale to be one-inch equals 200-feet) which extends a minimum of 500-feet beyond the limits of the proposed development detailing (i) the various drainage basins, (ii) the direction and flow rate of runoff, and (iii) the flow routing for the controlling time of concentration shall be prepared and submitted along with the plan.
- (7) A topographic base plan (minimum scale to be one-inch equals 50 feet) demonstrating positive drainage from each lot or structure shall be prepared and submitted along with the plan. Such plan shall include (i) direction of flow arrows, (ii) elevations of lot corners, center, high points, low points, finished floor, curbing, and other drainage features (iii) locations where proposed grades meet existing grades, (iv) sizing, slope and elevation of culverts and pipes, (v) depth, size, shape and slope of ditches (vi) size, inverts and elevations of receiving channels or systems, and (vii) location, access to, and details of any BMPs. The one-hundred year flood boundary as depicted on the Flood Insurance Rate Map shall be shown on the plan and all proposed development within the floodplain shall meet the requirements of the Floodplain Management Area Overlay District section of chapter 24.1 of this code.

- (8) BMPs for subdivisions shall be sized based upon total impervious cover which is the summation of the actual impervious cover of the streets and other improvements being proposed as part of the subdivision and the expected average percent impervious cover per lot. The expected average percent impervious cover per lot shall be determined by the applicant based upon such factors as: the size and style of homes; length, width and configuration of the driveways; number and size of decks, pools, sheds and other accessory structures; and other development that can reasonably be expected to occur on the lots. In no case shall the expected average impervious cover per lot be less than is defined by the curve containing the following data points in the form of (average lot size in square feet: minimum expected percent impervious cover): (87120:12), (43560:20), (21780:25), (14505:30), (10890:38) and (5445:65).
- (9) Retention or detention facilities shall be shown on the plan with the following details where applicable (i) a minimum of two cross-sectional views at 90 degrees to each other (one through the outfall) for each basin showing: adequate freeboard, ground water elevation, bottom elevation, normal water surface elevation, water surface elevations for two, ten and 100-year storm, side slopes and top of bank elevations (ii) spillway, (iii) emergency spillway, (iv) outfall structure, (v) forebay, (vi) plantings (vii) impoundment easement, (viii) access for maintenance, and (ix) stock pile areas for future dredging spoils. All details should be drawn to scale and slopes shown as horizontal distance in feet required for one foot change in vertical distance (H:V).
- (10) Geotechnical properties for the hydrologic and structural properties of soils for all stormwater retention and detention facilities shall be described in a soils report and submitted as part of the plan. The submitted report shall follow the criteria in the Handbook and shall include (i) boring depth, (ii) ground water elevation, (iii) sampling frequency, (iv) sample type, and (v) associated laboratory testing with results and conclusions. Soil properties for infiltration facilities shall also conform to the guidance and specification outlined in the Handbook.
- (11) The maintenance requirements for all BMPs proposed on the plans shall be identified on the plans in the form of a maintenance plan. The purpose of the maintenance plan is to ensure the BMPs will continue to function as designed. The maintenance requirements are to be classified as routine or long term. The required frequency of the maintenance is to be given along with any details necessary to explain each requirement, how it is to be performed, expected cost, level of expertise required to perform, etc. The maintenance plan shall identify the owner of the BMPs and the responsible party for carrying out the maintenance plan. For each facility requiring the removal of accumulated sediments, the point at which the removal of sediment must be performed shall be identified in a quantifiable manner. Access for inspections and maintenance activities must be ensured and permanent easements provided as necessary.

- (12) The following standards shall apply to the design and construction of stormwater systems and shall be incorporated into the plans:
- a. The maximum depth of open channels should not exceed three feet measured from the invert of the ditch to the adjacent proposed ground elevation.
 - b. The minimum longitudinal slope for open channels shall be 0.0050 foot per foot for channels with unpaved bottoms and 0.0025 foot per foot for channels with paved bottoms.
 - c. The minimum longitudinal slope for curb and gutter shall be 0.0030 foot per foot.
 - d. Stormwater systems that utilize a pump or pumps shall not be approved unless the pumping system will be owned and operated by the county.
 - e. Permanent drainage easements are required where the stormwater system is located on private property owned by other than the owner of the stormwater system.
 - f. Permanent impoundment easements are to be provided where the stormwater system is expected to impound waters during a 100-year storm on private property owned by other than the owner of the stormwater system.
 - g. All stormwater runoff shall be conveyed to a stormwater system and shall not be permitted to sheet flow offsite unless otherwise approved.
 - h. Existing drainage patterns must be preserved to the maximum extent practicable. Requests to alter drainage patterns must be made in writing and submitted for approval as part of the drainage plan.
 - i. Wet ponds shall have a minimum depth of water of six-feet.
- (h) Each plan approved shall be subject to the following conditions:
- (1) The applicant shall comply with all applicable requirements of the approved plan, and shall certify that all land clearing, construction, land development and drainage will be done according to the approved plan.
 - (2) The land development project shall be conducted only within the area specified in the approved plan.

- (3) The county administrator shall be allowed, after giving notice to the owner, occupier, or operator of the land development project to conduct periodic inspections of the project.
- (4) The person responsible for implementing the approved plan shall conduct monitoring and submit reports as the county may require to ensure compliance with the approved plan to determine whether the plan provides effective stormwater management.
- (5) No changes may be made to an approved plan without review and written approval of the county.

Sec. 23.3-13. Exceptions.

- (a) A request for an exception shall be submitted in writing. An exception from any requirement of this chapter may be granted, provided that: (i) exceptions are minimum necessary to afford relief and (ii) reasonable and appropriate conditions shall be imposed as necessary upon any exception granted so that the intent of the Act and this chapter are preserved.
- (b) Economic hardship shall not be the basis for an exception from the requirements of this chapter.
- (c) The exception request shall include the specific section or sections of this chapter the applicant is requesting to be waived or modified, the reason the exception is being requested, and any other data that explains or supports the exception request, including but not limited to alternative stormwater management methods designed to attain the standards set out in this Chapter to the greatest extent practicable.

Sec. 23.3-14. Illicit discharges.

- (a) It shall be a violation of this ordinance to:
 - (1) Discharge, or cause or allow to be discharged, sewage, industrial wastes or other wastes into the storm sewer system, or any component thereof, or onto driveways, sidewalks parking lots or other areas draining to the storm sewer system; or
 - (2) Connect, or cause or allow to be connected, any sanitary sewer connected to the storm sewer system as of the date of adoption of this article; or
 - (3) Throw, place or deposit or cause to be thrown, placed or deposited into the storm sewer system anything that impedes or interferes with the free flow of stormwater therein.

Sec. 23.3-15. Modifications to existing stormwater systems.

- (a) Existing stormwater systems or any part thereof that convey offsite or a combination of onsite and offsite stormwater runoff shall not be altered or relocated except upon the presentation of data, certified by a licensed engineer that the stormwater carrying capacity of such a modified system is equal to or exceeds the existing capacity. It is not the intent of this section to prevent normal maintenance activities from being performed.

Sec. 23.3-16. Sequence of construction and record drawings.

- (a) Unless otherwise approved, in any land development or land development project, any required stormwater system shall be constructed prior to the construction of any required sanitary sewer system.
- (b) Record Drawings are required for all components of the stormwater system. The record drawings shall be appropriately sealed and signed by a licensed professional in adherence to all minimum standards and requirements pertaining to the practice of that profession. The record drawings shall:
 - (1) Be of the same sheet size; format, scale, etc. as the approved stormwater management plans;
 - (2) Show the as-built condition of the stormwater system calling attention to any changes from the approved drawings;
 - (3) Give the actual dimensions of components such as length of pipe, ditch, etc.;
 - (4) Provide elevations for all rims, inverts, channel bottoms, outfalls, pond cross-sections, structures and all other elevation sensitive components of the system; and
 - (5) Contain a certification stating that the stormwater system has been constructed in accordance with the plan and that the system is functioning as designed.
- (c) Prior to the issuance of building permits for above ground structures, preliminary record drawings of the completed stormwater system must be submitted for approval.
- (d) Prior to the completion of the project and prior to the issuance of the "Certificate of Occupancy" for any structure, final record drawings shall be submitted and approved.

Sec. 23.3-17. BMP maintenance agreement.

- (a) The operation and maintenance of all stormwater facilities identified on the plan shall be guaranteed via a stormwater management/BMP maintenance agreement between the developer and the county. The agreement shall be executed prior to the issuance of the land disturbing activity permit.
- (b) The stormwater management/BMP maintenance agreement shall at a minimum:
 - (1) Be in a form approved by the county attorney;
 - (2) Reference the approved stormwater management plan;
 - (3) Insure the stormwater management/BMP facilities are constructed in accordance with the approved plans;
 - (4) Insure the developer, its successors and assigns maintain the stormwater management/BMP facilities in good working condition, acceptable to the county, so that they are performing their design functions;
 - (5) Establish permission for the county to enter upon the property to inspect the stormwater management/BMP facilities in order to assure they are functioning properly;
 - (6) Provide a procedure that in the event the developer, its successors and assigns fail to properly maintain the stormwater management/BMP facilities in good working order allows the county to perform any corrective actions necessary and recover the costs of taking such actions from the developer, its successors and assigns, and;
 - (7) Be recorded with the land records of the county.

Sec. 23.3-18. Monitoring, reports, inspections, and stop work orders.

- (a) The county administrator shall have authority to make such lawful inspections and conduct monitoring of stormwater outfalls or other components of the storm sewer system as may be necessary or appropriate in the administration and enforcement of this chapter.
- (b) The county may require the person responsible for implementing the approved plan to monitor and submit reports as the county may require to ensure compliance with the approved plan and to determine whether the plan provides effective stormwater management. The person responsible for implementing the plan will maintain records of all inspections and maintenance, to ensure compliance with the approved plan and to determine whether the measures required in the plan are providing effective stormwater management.

- (c) If the county administrator determines that there is a failure to comply with the plan, notice shall be served upon the applicant, owner or person responsible for carrying out the plan by registered or certified mail to the address specified in the plan application or in the plan certification, or by delivery at the site of the development activities to the agent or employee supervising such activities. The notice shall specify the measures needed to comply with the plan and shall specify the time within which such measures shall be completed. Upon failure to comply within the specified time, the applicant, owner or person responsible for carrying out the plan shall be deemed to be in violation of this ordinance and shall be subject to the penalties provided by this ordinance.
- (d) Upon determination of a violation of this ordinance, the county administrator may, in conjunction with or subsequent to a notice to comply as specified in this ordinance, issue an order requiring that all or part of the development activities on the site be stopped until the specified corrective measures have been taken. The stop work order shall be served in the same manner set out in subsection (c), above, for a notice to comply.

Secs. 23.3-19—23.3-25. Reserved.

ARTICLE III. VIOLATIONS

Sec. 23.3-26. Violations of chapter—Generally.

- (a) Any person who engages in or causes any regulated land-disturbing activity, without first submitting a stormwater management plan to the county and obtaining approval of the plan as prescribed by this chapter, shall be in violation of this chapter.
- (b) Any person who violates any condition of any approved stormwater management plan or exceeds the scope of approval of any authorized activity or who fails to comply with any other provision of this chapter shall be in violation of this chapter.
- (c) Violations of section 14 of this chapter shall result in the following penalties:
 - (1) A willful violation shall constitute a Class 1 misdemeanor. Each day that a continuing violation is maintained or permitted to remain shall constitute a separate offense.
 - (2) Any person who, intentionally or otherwise, commits any of the acts prohibited by section 14 of this chapter shall be liable to the county for all costs of monitoring, containment, cleanup, abatement, removal and disposal of any substance unlawfully discharged into the storm sewer system.

- (3) Any person who, intentionally or otherwise, commits any of the acts prohibited by section 14 of this chapter shall be subject to a civil penalty in an amount not to exceed \$1,000 for each day that a violation of this chapter continues. The court assessing such penalties may, at its discretion, order such penalties be paid into the treasury of the county for the purpose of abating, preventing, monitoring, or mitigating environmental pollution.
- (4) The county may bring legal action to enjoin a continuing violation and the existence of any other remedy, at law or in equity, shall be no defense to any such action.
- (5) The remedies set forth in this section shall be cumulative, not exclusive; and it shall not be a defense to any action, civil or criminal, that one or more remedies set forth herein has been sought or granted.